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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,739	10/22/2001	Gil Mueller	450117-03591	5444
20999	7590	06/08/2006	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			TAYLOR, NICHOLAS R	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/016,739

Applicant(s)

MUELLER ET AL.

Examiner

Nicholas R. Taylor

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 1 and 3-15 have been presented for examination and are rejected.
2. The proposed amendments to the specification filed on March 23rd, 2006, are approved.

### ***Response to Arguments***

3. Applicant's arguments filed March 23rd, 2006, with respect to the claims have been considered but are moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3, 8-10, and 12-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Forecast et al. (U.S. Patent 6,230,200).

Art Unit: 2141

6. As per claim 1, Forecast teaches a centralized method for resolving resource conflicts occurring when shareable resources which are at least partially allocated by at least one resource using client are requested by a resource demanding client (Forecast, col. 8, line 56 to col. 9, line 36),

wherein, in order to resolve resource conflicts, a negotiation process with said at least one resource using client and said resource demanding client about future rights of allocating said requested shareable resources is performed, and

wherein said negotiation process is based upon a process of tracking and/or storing relationship information between said shareable resources allocated by said resource using client and client operations of said resource using client using said allocated shareable resources, (Forecast, col. 61, lines 44-57 and fig. 49; also col. 63, lines 5-20)

said relationship information specifying which client operations have to be terminated in order to de-allocate a particular amount of shareable resources requested by said resource demanding client (Forecast, col. 66, lines 13-19, 32-54; where the termination method is described at col. 53 line 65 to col. 54, line 22; moving through the process of fig. 41-43).

7. As per claim 3, Forecast teaches the system further characterized in that said negotiating process is based upon a determining process of a client status of said resource using client (Forecast, col. 61, lines 44-57).

Art Unit: 2141

8. As per claim 8, Forecast teaches the system further characterized by acting according to a configurable default reaction mechanism if said resource using client refuses to participate said negotiating process, refuses to act according to results of said negotiating process or is not capable of participating in said negotiating process (Forecast, fig. 41, item 556, and col. 53, line 65 to col. 54, line 22).

9. As per claim 9, Forecast teaches the system further characterized by preempting said resource using client from its allocated shareable resources as a default reaction mechanism (Forecast, fig. 41, where the resource using client takes YES paths from point 552 or 554).

10. As per claim 10, Forecast teaches the system further characterized by terminating said client operations using said allocated shareable resources as a default reaction mechanism (Forecast, fig. 41, item 556).

11. As per claim 12, Forecast teaches the system further characterized in that said negotiating process, said step of determining said client status of said resource using client and said step of providing said shareable resources to said resource demanding client are coordinated by a central unit having access to said shareable resources (Forecast, fig. 1, item 20 and fig. 49).

Art Unit: 2141

12. As per claim 13, Forecast teaches a host providing shareable resources for performing specific client operations, which are assignable to resource using clients being connected to said host, respectively comprising: (Forecast, col. 8, line 56 to col. 9, line 36),

an extracting means for extracting client status information of a resource using client, processing means being connected to said extracting means for processing said extracted client status information, providing means being connected to said extracting means and said processing means for providing said shareable resources to a resource demanding client and/or to a client operation assigned to said resource demanding client, wherein said shareable resources providing process is initiatable or refusable by said processing means according to said extracted client status information and is also based upon tracking and/or storing relationship information between said shareable resources allocated by said resource using client and client operations of said resource using client using said allocated shareable resources, (Forecast, col. 61, lines 44-57 and fig. 49; also col. 63, lines 5-20)

said relationship information specifying which client operations have to be terminated in order to de-allocate a particular amount of shareable resources requested by said resource demanding client (Forecast, col. 66, lines 13-19, 32-54; where the termination method is described at col. 53 line 65 to col. 54, line 22; moving through the process of fig. 41-43).

Art Unit: 2141

13. As per claim 14, Forecast teaches the system further characterized by providing said deallocated shareable resources of said resource using client to said resource demanding client (Forecast, col. 66, lines 32-54).

14. As per claim 15, Forecast teaches the system further characterized by providing said deallocated shareable resources of said resource using client to said resource demanding client (Forecast, col. 66, lines 32-54).

***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 4-7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Forecast et al. (U.S. Patent 6,230,200) and Chang et al. (U.S. Patent 6,240,453).

17. As per claim 4, Forecast teaches the above, including release requests based on client preference (Forecast, col. 54, lines 34-56), yet fails to teach asking the resource using client or a user of said resource using client about releasing at least a part of its allocated shareable resources and/or about terminating said client operations using said allocated shareable resources to determine said client status of said resource using

Art Unit: 2141

client, said asking process being performed on the basis of said tracked and/or stored relationship information.

Chang teaches a communication channel resource management system (Chang, col. 2, lines 19-31) where the resource-using client is asked to terminate/release its unused allocated resources (Chang, col. 9, lines 33-67 and figure 12).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Forecast and Chang to provide the request system of Chang in the system of Forecast, because doing so would allow confirmation and input from the specific resource using client thereby optimizing resource availability (Chang, col. 1, lines 61-67 and col. 2, lines 19-29).

18. As per claim 5, Forecast-Chang teaches the system further characterized by refusing to provide shareable resources to said resource demanding client if said resource using client refuses to release its allocated shareable resources and/or if said resource using client refuses to terminate said client operations using said allocated shareable resources (Chang, figure 12, flow branch 1211).

19. As per claim 6, Forecast-Chang teaches the system further characterized by instructing said resource using client to release its allocated shareable resources and/or to terminate said client operations using said allocated shareable resources if said resource using client accepts to release its allocated shareable resources and/or if said



Art Unit: 2141

resource using client accepts to terminate said client operations using said allocated shareable resources (Chang, figure 12, specifically the call release\_resource function).

As per claim 7, Forecast teaches the above, including release requests based on client preference (Forecast, col. 54, lines 34-56), yet fails to teach asking the resource using client or a user of said resource using client about releasing at least a part of its allocated shareable resources and/or about terminating said client operations using said allocated shareable resources to determine said client status of said resource using client, said asking process being performed on the basis of said tracked and/or stored relationship information.

20. As per claim 7, Forecast teaches the above, yet fails to teach asking said resource demanding client whether insisting on a shareable resources demand.

Chang teaches a communication channel resource management system (Chang, col. 2, lines 19-31) where the resource-using client is asked to terminate/release its unused allocated resources (Chang, col. 9, lines 33-67 and figure 12).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have combined Forecast and Chang to provide the request system of Chang in the system of Forecast, because doing so would allow confirmation and input from the specific resource using client thereby optimizing resource availability (Chang, col. 1, lines 61-67 and col. 2, lines 19-29).

Art Unit: 2141

21. As per claim 11, Forecast-Chang teaches the system further characterized by providing said deallocated shareable resources of said resource using client to said resource demanding client (Forecast, col. 66, lines 32-54).

### ***Conclusion***

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Taylor whose telephone number is (571) 272-3889. The examiner can normally be reached on Monday-Friday, 8:00am to 5:30pm, with alternating Fridays off.

Art Unit: 2141

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas Taylor  
Examiner  
Art Unit 2141



RUPAL DHARIA  
SUPERVISORY PATENT EXAMINER